

# PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

# PCT

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL SEARCH REPORT  
OR THE DECLARATION

(PCT Rule 44.1)

To:  
TYCO. HEALTHCARE GROUP LP  
Attn. Audet, Paul  
150 Glover Avenue  
Norwalk, CT 06856  
UNITED STATES OF AMERICA

Date of mailing  
(day/month/year) 05/06/2002

Applicant's or agent's file reference  
2684 PCT

**FOR FURTHER ACTION** See paragraphs 1 and 4 below

International application No.  
PCT/US 02/ 00345

International filing date  
(day/month/year) 08/01/2002

Applicant

TYCO HEALTHCARE GROUP LP

1. ☒ The applicant is hereby notified that the International Search Report has been established and is transmitted herewith.

**Filing of amendments and statement under Article 19:**

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

**When?** The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

**Where?** Directly to the International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland  
Facsimile No.: (41-22) 740.14.35

**For more detailed instructions,** see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no International Search Report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.


☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Further action(s):** The applicant is reminded of the following:

Shortly after **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

Within **19 months** from the priority date, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later).

Within **20 months** from the priority date, the applicant must perform the prescribed acts for entry into the national phase before all designated Offices which have not been elected in the demand or in a later election within 19 months from the priority date or could not be elected because they are not bound by Chapter II.

Name and mailing address of the International Searching Authority  
 European Patent Office, P.B. 5818 Patentlaan 2  
NL-2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer

Paul Faux

## NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

### INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

#### What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

#### When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

#### Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

#### How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

#### What documents must/may accompany the amendments?

##### Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

## NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:  
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:  
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:  
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or  
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:  
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

### "Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

**It must be in the language in which the international application is to be published.**

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

### Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

### Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

## PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference <b>2684 PCT</b>	<b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. <b>PCT/US 02/ 00345</b>	International filing date (day/month/year) <b>08/01/2002</b>	(Earliest) Priority Date (day/month/year) <b>24/01/2001</b>
Applicant <b>TYCO HEALTHCARE GROUP LP</b>		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

## 1. Basis of the report

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☐ **Certain claims were found unsearchable** (See Box I).

3. ☐ **Unity of invention is lacking** (see Box II).

4. With regard to the **title**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

☐ the text is approved as submitted by the applicant.

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☒ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

1  
☐ None of the figures.

## INTERNATIONAL SEARCH REPORT

International application No.

PCT/US 02/00345

## Box III TEXT OF THE ABSTRACT (Continuation of it m 5 of th first sheet)

A surgical instrument (10) for anastomosis of first and second blood vessels includes a housing (26) having distal and proximal ends (22,24) and an actuator disposed therebetween. The actuator includes a handle (12) and a link assembly (20), the link assembly being movable through a firing stroke in response to movement of the handle. The instrument also includes a disposable loading unit (100) releasably attached to the distal end (22) of the housing (26) in mechanical cooperation with the actuator. The disposable loading unit (100) supports a plurality of surgical fasteners (260), which deform upon movement of the actuator and the link assembly through the firing stroke.

A. CLASSIFICATION OF SUBJECT MATTER  
IPC 7 A61B17/115 A61B17/11 A61B17/32

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)  
IPC 7 A61B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)  
EPO-Internal, WPI Data, PAJ

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 0 643 946 A (UNITED STATES SURGICAL CORP) 22 March 1995 (1995-03-22) column 5, line 34 -column 6, line 23 ---	1,8,9 7
A		
Y	WO 00 69343 A (HENDRICKSEN MICHAEL ;NIELSEN JAMEY (US); HAUSEN BERNARD (US); VARG) 23 November 2000 (2000-11-23) page 14, line 12 -page 18, line 4; figures 14-24 ---	1-6,8 7
A		
Y	EP 0 885 595 A (UNITED STATES SURGICAL CORP) 23 December 1998 (1998-12-23) column 9, line 47 -column 10, line 13 ---	1-6,8
X	US 6 083 234 A (SMITH ROBERT C ET AL) 4 July 2000 (2000-07-04) the whole document --- -/--	1

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

\* Special categories of cited documents:

- \*A\* document defining the general state of the art which is not considered to be of particular relevance
- \*E\* earlier document but published on or after the international filing date
- \*L\* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- \*O\* document referring to an oral disclosure, use, exhibition or other means
- \*P\* document published prior to the international filing date but later than the priority date claimed

\*T\* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

- \*X\* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- \*Y\* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

\*G\* document member of the same patent family

Date of the actual completion of the international search

24 May 2002

Date of mailing of the international search report

05/06/2002

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2  
NL - 2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer

Angeli, M

## C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 0 820 724 A (UNITED STATES SURGICAL CORP) 28 January 1998 (1998-01-28) column 6, line 49 -column 10, line 29 ----	1
P,X	EP 1 088 519 A (UNITED STATES SURGICAL CORP) 4 April 2001 (2001-04-04) the whole document -----	1-9

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
EP 0643946	A	22-03-1995	US 5454824 A 03-10-1995
			CA 2130954 A1 23-03-1995
			DE 69407240 D1 22-01-1998
			DE 69407240 T2 23-04-1998
			EP 0643946 A2 22-03-1995
			ES 2111820 T3 16-03-1998
WO 0069343	A	23-11-2000	AU 5143000 A 05-12-2000
			AU 5150500 A 05-12-2000
			AU 5150600 A 05-12-2000
			AU 5588200 A 05-12-2000
			DE 10084618 T0 08-05-2002
			US 2002042622 A1 11-04-2002
			WO 0069364 A2 23-11-2000
			WO 0069343 A2 23-11-2000
			WO 0069346 A1 23-11-2000
			WO 0069349 A1 23-11-2000
			US 6371964 B1 16-04-2002
EP 0885595	A	23-12-1998	US 6024748 A 15-02-2000
			AU 739273 B2 11-10-2001
			AU 7190398 A 24-12-1998
			CA 2240638 A1 17-12-1998
			DE 69801398 D1 27-09-2001
			DE 69801398 T2 08-05-2002
			EP 0885595 A1 23-12-1998
			ES 2161002 T3 16-11-2001
			JP 11070114 A 16-03-1999
			US 6083234 A 04-07-2000
			US 2001029384 A1 11-10-2001
			US 2002019642 A1 14-02-2002
US 6083234	A	04-07-2000	US 6024748 A 15-02-2000
			US 5707380 A 13-01-1998
			EP 0990420 A2 05-04-2000
			US 2001029384 A1 11-10-2001
			US 2002019642 A1 14-02-2002
			AU 739273 B2 11-10-2001
			AU 7190398 A 24-12-1998
			CA 2240638 A1 17-12-1998
			DE 69801398 D1 27-09-2001
			DE 69801398 T2 08-05-2002
			EP 0885595 A1 23-12-1998
			ES 2161002 T3 16-11-2001
			JP 11070114 A 16-03-1999
			AU 722259 B2 27-07-2000
			AU 2943797 A 29-01-1998
			CA 2210617 A1 23-01-1998
			DE 69701339 D1 06-04-2000
			DE 69701339 T2 24-08-2000
			EP 0820725 A2 28-01-1998
			ES 2143273 T3 01-05-2000
			JP 10118078 A 12-05-1998
EP 0820724	A	28-01-1998	US 5833698 A 10-11-1998
			CA 2210619 A1 23-01-1998
			DE 69701338 D1 06-04-2000
			DE 69701338 T2 24-08-2000



Patent document cited in search report	Publication date	Patent family member(s)	Publication date
EP 0820724	A	EP 0820724 A2	28-01-1998
		ES 2143272 T3	01-05-2000
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EP 1088519	A	AU 6130500 A	05-04-2001
	04-04-2001	EP 1088519 A1	04-04-2001
		JP 2001198134 A	24-07-2001
		US 2002019642 A1	14-02-2002
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# PCT

## NOTICE INFORMING THE APPLICANT OF THE COMMUNICATION OF THE INTERNATIONAL APPLICATION TO THE DESIGNATED OFFICES

(PCT Rule 47.1(c), first sentence)

From the INTERNATIONAL BUREAU

To:

AUDET, Paul  
Tyco Healthcare Group LP  
150 Glover Avenue  
Norwalk, CT 06856  
ETATS-UNIS D'AMERIQUE

AUG 12 2002

LEGAL DEPARTMENT  
U.S. SURGICAL CORPORATION

Date of mailing (day/month/year) 01 August 2002 (01.08.02)		
Applicant's or agent's file reference 2684 PCT		IMPORTANT NOTICE
International application No. PCT/US02/00345	International filing date (day/month/year) 08 January 2002 (08.01.02)	Priority date (day/month/year) 24 January 2001 (24.01.01)
Applicant TYCO HEALTHCARE GROUP LP et al		

1. Notice is hereby given that the International Bureau has **communicated**, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this notice:

KP,KR,US

In accordance with Rule 47.1(c), third sentence, those Offices will accept the present notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

2. The following designated Offices have waived the requirement for such a communication at this time:

AE,AG,AL,AM,AP,AT,AU,AZ,BA,BB,BG,BR,BY,BZ,CA,CH,CN,CO,CR,CU,CZ,DE,DK,DM,DZ,EA,EC,  
EE,EP,ES,FI,GB,GD,GE,GH,GM,HR,HU,ID,IL,IN,IS,JP,KE,KG,KZ,LC,LK,LR,LS,LT,LU,LV,MA,  
MD,MG,MK,MN,MW,MX,MZ,NO,NZ,OA,OM,PH,PL,PT,RO,RU,SD,SE,SG,SI,SK,SL,TJ,TM,TR,TT,TZ,

The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).

3. Enclosed with this notice is a copy of the international application as published by the International Bureau on  
01 August 2002 (01.08.02) under No. WO 02/058568

4. **TIME LIMITS for filing a demand for international preliminary examination and for entry into national phase**

The applicable time limit for entering the national phase will, **subject to what is said in the following paragraph** be **30 MONTHS** from the priority date, not only in respect of any elected Office if a demand for international preliminary examination is filed before the expiration of **19 months** from the priority date, but also in respect of any designated Office, in the absence of filing of such demand, where Article 22(1) as modified with effect from 1 April 2002 applies in respect of the designated Office. For further details, see PCT Gazette No.44/2001 of 1 November 2001, pages 19926, 19932 and 19934, as well as the PCT Newsletter, October and November 2001 and February 2002 issues.

In practice, **time limits other than the 30-month time limit** will continue to apply, for various periods of time, in respect of certain designated or elected Offices. For **regular updates on the applicable time limits** (20,21,30 or 31 months, or other time limit), Office by Office, refer to the PCT Gazette, the PCT Newsletter and the PCT Applicant's Guide, Volume II, National Chapters, all available from WIPO's Internet site, at <http://www.wipo.int/pct/en/index.html>.

For filing a **demand for international preliminary examination**, see the PCT Applicant's Guide, Volume I/A, Chapter IX. Only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination (at present, all PCT Contracting States are bound by Chapter II.)

It is the applicant's **sole responsibility** to monitor all these limits.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. (41-22) 740.14.35	Authorized officer  J. Zahra  Telephone No. (41-22) 338.91.11
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